

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

File No. 89456-001

v

Blue Cross Blue Shield of Michigan
Respondent

_____/

Issued and entered
This 3rd day of July 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On April 28, 2008, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on May 5, 2008.

The Petitioner is enrolled for health coverage through the Michigan Education Special Services Association (MESSA) that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Commissioner notified BCBSM of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on May 14, 2008.

The issue in this external review can be decided by a contractual analysis. The contract here is the MESSA Choices Group Insurance for School Employees benefit book (benefit book). The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). Because this dispute

involves the dollar amount of coverage which must be provided by Respondent, this matter does not require a medical opinion from an independent review organization.

II FACTUAL BACKGROUND

The Petitioner suffers from an auto immune condition known as alopecia areata that has caused her to lose her hair. On October 6, 2007, she purchased a hair prosthesis or wig from a non-participating provider. The cost for this item was \$1,600.00 which she paid in full. BCBSM paid \$1,000.00 for the Petitioner's wig.

The Petitioner appealed BCBSM's payment amount. BCBSM held a managerial-level conference on March 26, 2008, and issued a final adverse determination dated April 7, 2008.

III ISSUE

Is BCBSM required to pay an additional amount for the Petitioner's hair prosthesis?

IV ANALYSIS

Petitioner's Argument

The Petitioner says that the \$1,000.00 offered by BCBSM may be the proper amount for cancer patients whose hair grows back but she needs a more expensive device since her hair will never come back. The Petitioner believes that BCBSM is required to pay the full amount charged for her hair prosthesis.

BCBSM's Argument

BCBSM says that its contracts do not guarantee that charges will be paid in full. Rather, its payments for physician/provider services are based on the lesser of the provider's charge and BCBSM maximum payment level. The Petitioner's benefit book states on page 54, "If your provider does not agree to participate, covered services will be paid up to the approved amount as determined by MESSA." Since the provider in this case is non-participating, MESSA has determined that the approved amount for hair prosthesis in question is \$1,000.00.

The Petitioner has the right to secure the services of any provider she feels is the best supplier of hair prostheses whether or not that provider is participating with BCBSM. However, that choice comes with consequences for out-of-pocket expenses. If she had secured the services of a participating provider, the provider would have accepted the approved amount as payment in full.

BCBSM believes that its payment for the Petitioner's wig is the appropriate amount under the provisions of the benefit book. It argues that it is not required to pay any additional amount.

Commissioner's Review

The language in the benefit book states that BCBSM is required to pay the lesser of its maximum amount or the provider charge for a covered benefit. If the provider participates with BCBSM, the provider agrees to accept the payment amount as payment in full. A non-participating provider is not required to accept this payment and may bill the patient the difference between the amount charged and the amount paid by BCBSM. Nothing in the benefit book requires BCBSM to pay for more than the maximum amount for a covered service.

In this case, the maximum amount payable for the Petitioner's hair prosthesis is \$1,000.00. BCBSM paid this amount to the Petitioner. Since the provider did not accept this as payment in full it was free to bill the Petitioner for the balance of its full \$1,600.00 charge for the hair prosthesis.

The Commissioner concludes that BCBSM has paid its full maximum amount for the Petitioner's hair prosthesis under the provisions of the benefit book and is not required to pay any additional amount.

ORDER

BCBSM's final adverse determination of April 7, 2008, is upheld. BCBSM is not required to pay any additional amount for the Petitioner's hair prosthesis.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the Circuit Court of Ingham

County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.